

REID COLLINS & TSAI LLP

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*Attorneys for Richard Fogerty, Joint Official Liquidator of
Trade and Commerce Bank (In Liquidation)*

<p>UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK</p> <p>-----X</p> <p>In re:</p> <p>TRADE AND COMMERCE BANK (IN LIQUIDATION)</p> <p>Debtor,</p> <p>-----X</p> <p>RICHARD FOGERTY, as Joint Official Liquidator of Trade and Commerce Bank</p> <p>Plaintiff,</p> <p>-against-</p> <p>Kesten Development Corp.</p> <p>Defendant.</p>	<p>Chapter 15 Case No. 05-60279 (SMB)</p> <p>Adv. Pro. No. 10-03611 (SMB)</p>
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**NOTICE OF MOTION FOR A TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

PLEASE TAKE NOTICE that, upon the Complaint, the annexed Affidavit of William T. Reid IV sworn to on the 24th day of September, 2010, and upon all the pleadings and proceedings herein, the undersigned will move this Court, before the Hon. Stuart M. Bernstein, Chief United States Bankruptcy Judge, One Bowling Green, New York, NY 10004-1408, on September _____,

2010 at _____ a.m./p.m., or as soon thereafter as counsel can be heard, for a Temporary Restraining Order and Preliminary Injunction enjoining Kesten from:

1. transferring, converting, encumbering, concealing, distributing, dissipating, disbursing, assigning, spending, withdrawing, moving, perfecting a security interest in, or or otherwise disposing of any assets wherever located, inside or outside the United States of America, that are owned, controlled or held by, or for the benefit of, in whole or in part, Defendant Kesten Development Corp., or in the actual or constructive possession of Defendant Kesten Development Corp., including but not limited to the \$6,871,042.36 seized by the Government from the account named Venus, account number 030101107 at MTB Bank held in the name of for the benefit of Kesten plus any interest earned (referred to as “Venus Account Funds,” which is currently being held by the Government in the U.S. Marshal’s Bank Account), until the completion of the litigation against Kesten and execution of any judgment received in that proceeding.;

2. incurring liens or encumbrances on real property, personal property, or other assets in the name of Kesten Development Corp., including the Venus Account Funds;

3. transferring any funds or assets subject to this Order for attorney’s fees.

4. notify the Court when it receives the Venus Account Funds from the Government;

5. provide the Court with the bank and account number where the funds are held.

PLEASE TAKE FURTHER NOTICE that the movant intends to serve reply papers.

Dated: New York, New York
September 24, 2010

Respectfully submitted,
REID COLLINS & TSAI LLP

/s/ William T. Reid IV

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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of September 2010, I served a true and correct copy of the foregoing **NOTICE OF MOTION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION** by hand delivery to the following registered agent and by regular mail to counsel for Defendant Kesten Development Corp. (counsel also served by email) and by email to and the United States Department of Justice:

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/s/ William T. Reid IV

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